

GAHC040013712024



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)
(ITANAGAR BENCH)

Case No. : Crl.Petn./175/2024

Lelong Lingfa and Anr.
(Accused) S/o Shri Rachung Lingfa, aged about 52 years, R/o Nabam Rajan Building,
near SBI ATM Mowb-II, PO/PS Itanagar, District Papum Pare, AP 2: Annu
Lingfa @ Annu Kommu
Age:
Occupation :
(Complainant)
W/o Shri Lelong Lingfa
aged about 32 years
R/o Nabam Rajan Building
near SBI ATM Mowb-II
PO/PS Itanagar
District Papum Pare
A

VERSUS

THE STATE OF AP
through Learned Public Prosecutor, AP

Advocate for the Petitioner : Lissing Perme, Signal Yirang, Tabung Nonang, William Yirang, A
Perme, Wintet Sawin, Krishna Dubey

Advocate for the Respondent : P P of AP,

BEFORE
THE HON'BLE MR JUSTICE ARUN DEV CHOUDHURY
ORDER

28.10.2024

Heard Mr. S Yirang, learned counsel for the petitioners. Also heard Mr. G Tado, learned Additional PP, Arunachal Pradesh.

2. This is an application filed under Section 528 of the BNSS, 2023 praying for setting aside and quashing the criminal proceeding of GR case No. 597/2020 arising of ITA WPS Case No. 84/2020 under Section 498(A)/494/427/509 IPC read with Section 31 of DV Act pending before the Court of learned Judicial Magistrate First Class, Yupia.
3. In the F.I.R. it is disclosed that the wife (petitioner No. 2) lodged an FIR against the accused husband (petitioner No. 1) alleging that the petitioner No. 1 took away her daughter without court permission and after few hours dropped her daughter at her house. It is also alleged that on the following day the petitioner No. 1 did the similar thing and threatened her and demanded money and also took away her ATM, PAN Card, Adhar Card, Driving Licence.
4. This present petition is jointly filed by the informant and the accused person, who are husband and wife, on the ground that they have amicably settled the matter. It is also on record that the petitioners have filed an additional affidavit, wherein it is sworn by the petitioners that the matter has been amicable settled vide settlement deed dated 04.06.2024 and out of misunderstanding the petitioner No. 2 lodged the FIR against the petitioner No. 1. Accordingly, it is contended that as the complainant and the accused had settled the matter amicably between them and therefore, this court in exercise of power under Section 528 of BNSS should quash the criminal prosecution inasmuch as the offences charged

are not compoundable under the provision of BNSS.

5. It is on record that after the registration of the FIR, the case was investigated by the Investigating Officer and Charge Sheet was laid against the petitioner No. 1 vide Charge Sheet No. 80/2021 dated 01.06.2021 corresponding to ITA WPS case No. 84/2020 under Section 498(A)/494/427/509 IPC read with Section 31 of DV Act.
6. The power under Section 528 of BNSS, 2023 is an inherent power and such inherent power can be exercised to quash a criminal proceeding or a criminal complaint but while doing so the court is to follow certain principles. Such power can be exercised, amongst others, when the offences alleged are overwhelmingly and predominantly civil in character or when such dispute arises out of matrimonial relationship or family disputes and the parties have resolved the entire disputes amongst themselves. While exercising such directory power it is to be seen that such offences if compromised shall not affect the society at large.
7. Therefore, in the considered opinion of this court, as the parties have amicably resolved the disputes and that the offences arises out of matrimonial relation and also that if the offences are allowed to be compounded that will have no serious impact on the society, the power under Section 528 of BNSS can be exercised in the given facts of the present case.
8. Accordingly, this petition is allowed by setting aside and quashing the criminal proceeding being GR case No. 597/2020 arising of ITA WPS Case No. 84/2020 under Section 498(A)/494/427/509 IPC read with Section 31 of DV Act pending before the Court of learned Judicial Magistrate First

Class, Yupia.

JUDGE

Comparing Assistant